

106TH CONGRESS
1ST SESSION

S. 1309

To amend title I of the Employee Retirement Income Security Act of 1974 to provide for the preemption of State law in certain cases relating to certain church plans.

IN THE SENATE OF THE UNITED STATES

JUNE 30, 1999

Mr. SESSIONS introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend title I of the Employee Retirement Income Security Act of 1974 to provide for the preemption of State law in certain cases relating to certain church plans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Church Plan Parity
5 and Entanglement Prevention Act of 1999”.

1 **SEC. 2. COVERAGE IN CERTAIN CASES OF CERTAIN**
2 **CHURCH PLANS UNDER PROVISIONS OF**
3 **ERISA SUPERSEDING CERTAIN STATE LAWS.**

4 Section 4 of the Employee Retirement Income Secu-
5 rity Act of 1974 (29 U.S.C. 1003) is amended—

6 (1) in subsection (b)(2), by inserting before the
7 semicolon the following: “, except that section 514
8 shall apply as provided for in subsection (c) with re-
9 spect to a church plan to the extent that such sec-
10 tion provides for the superseding of State insurance
11 law and such plan meets the requirements of sub-
12 section (c)’”; and

13 (2) by adding at the end the following:

14 “(c)(1) A church plan meets the requirements of this
15 subsection if—

16 “(A) the plan is established and maintained by
17 a church or a convention or association of churches,
18 including an organization described in section
19 3(33)(C)(i);

20 “(B) such church, convention or association of
21 churches, or organization has engaged in substantial
22 operations for more than 5 years in connection with
23 the administration or funding of 1 or more employee
24 benefit plans; and

25 “(C) such church, convention or association of
26 churches, or organization has filed with the Sec-

1 retary before the end of each plan year to which this
2 subsection applies an affidavit of a fiduciary attest-
3 ing that the plan (including any trust forming a part
4 of the plan) meets the requirements of this sub-
5 section, specifying the name of the plan, the address
6 of the principal place of business of the plan, the
7 name of the plan administrator, the address of the
8 plan administrator, the total number of participants,
9 and providing such additional information as the
10 Secretary may determine by regulation may be pro-
11 vided without significant burden to the plan.

12 The Secretary shall consult with the National Association
13 of Insurance Commissioners in issuing regulations under
14 subparagraph (C).

15 “(2) The requirements of this subsection shall be con-
16 strued so as to maintain a rebuttable presumption against
17 the superseding of State law.

18 “(3) For purposes of this subsection, the term
19 ‘church plan’ excludes any other entity, irrespective of any
20 affiliation with the plan (or with a trust forming a part
21 of the plan), to the extent that such entity’s principal pur-
22 pose or function is other than the administration or fund-
23 ing of benefits under an employee benefit plan for the em-
24 ployees of a church or convention or association of church-
25 es.

1 “(4) Except as specifically provided in paragraph (5),
2 nothing in this subsection shall be construed to affect any
3 State law—

4 “(A) to the extent that it applies to an insur-
5 ance company, or insurer, including a health mainte-
6 nance organization or provider service organization;
7 or

8 “(B) which is enacted for the purpose of the
9 regulation of the business of insurance, except to the
10 extent that such law is applied directly to a church
11 plan meeting the requirements of this subsection (or
12 any trust forming a part of the plan).

13 “(5) This title shall supersede any provision of State
14 law which, solely because a church plan meeting the re-
15 quirements of this subsection (or a trust forming a part
16 of such plan) does not comply with a State law otherwise
17 superseded by this title, prohibits—

18 “(A) an agent or broker, otherwise authorized
19 to engage in the sale of insurance within a State,
20 from engaging in a sale of insurance in connection
21 with a church plan meeting the requirements of this
22 subsection (or a trust forming a part of such a
23 plan);

24 “(B) an insurer, otherwise authorized to engage
25 in the sale of stop-loss insurance, from issuing a

1 stop-loss policy in connection with a church plan
2 meeting the requirements of this subsection (or a
3 trust forming a part of such a plan); or

4 “(C) a service provider, otherwise authorized to
5 engage in the provision of services within a State,
6 from providing services in connection with a church
7 plan meeting the requirements of this subsection.

8 “(6) Nothing in this subsection shall be construed
9 to—

10 “(A) alter, amend, modify, invalidate, impair,
11 or supersede any other law of the United States or
12 any rule or regulation issued under any such law;

13 “(B) alter, amend, modify, invalidate, impair,
14 or supersede any law of any State, or any rule or
15 regulation issued under any such law, unless specifi-
16 cally so provided in this subsection;

17 “(C) alter, amend, modify, invalidate, impair, or
18 supersede any State law to the extent that it im-
19 poses requirements on policies or contracts of insur-
20 ance purchased by church plans meeting the require-
21 ments of this subsection; or

22 “(D) alter, amend, modify, invalidate, impair,
23 or supersede any State law which applies to a func-
24 tion other than the function of operating a church
25 plan meeting the requirements of this subsection.

1 “(7) For purposes of this subsection, the terms
2 ‘State’ and ‘State law’ have the meanings provided such
3 terms under section 514(c).”.

4 **SEC. 3. NO INFERENCE.**

5 Nothing in this Act may be construed to raise any
6 inference with respect to the applicability to any church
7 plan (or trust forming a part of a church plan) of any
8 State law which is not expressly superseded by reason of
9 the amendments made by this Act.

10 **SEC. 4. EFFECTIVE DATE.**

11 The amendments made by this Act shall take effect
12 on the date of the enactment of this Act.

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